

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN L. RUSH, et al.,)	
)	
Plaintiffs,)	Civil Action No. 1:21-cv-316
)	
v.)	District Judge Schwab
)	
JOHN E. WETZEL,)	Magistrate Judge Lenihan
DEREK F. OBERLANDER, and)	
RANDY IRWIN)	
)	ECF No. 118, 127
Defendants.)	

MEMORANDUM ORDER

This civil action was commenced on November 15, 2021, when Plaintiff John L. Rush filed a Motion for Leave to Proceed in Forma Pauperis. ECF No. 1. On January 13, 2022, the Motion was denied as moot as to Plaintiff Rush and all other plaintiffs who likewise moved for in forma pauperis status when the entire filing fee was paid by Plaintiff Mitchell Simpson on January 11, 2022. ECF No. 43. The Complaint was docketed by the Clerk of Court on January 11, 2022. ECF No. 44. The case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 127), filed on April 12, 2023, recommended that the Motion to Dismiss the Amended Complaint filed by Defendants Wetzel, Oberlander and Irwin (ECF 118) be granted. The Magistrate Judge further noted that Plaintiffs' claims for violation of procedural due process concerning an alleged liberty interest, and Plaintiffs' claims against Defendants in their official capacities for prospective injunctive relief, rather than money damages, remained in the case.

The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. Objections were due on April 26, 2023. On that day, Plaintiffs filed their objections. ECF No. 128.

After a *de novo* review of the pleadings, documents in the case, together with the Report and Recommendation and Objections, the following Order is entered:

AND NOW, this 15th day of May 2023,

IT IS HEREBY ORDERED that the Motion to Dismiss the Amended Complaint filed by Defendants Wetzel, Oberlander and Irwin (ECF No. 118) **IS GRANTED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 127) of Magistrate Judge Lenihan, dated April 12, 2023, is adopted as the Opinion of the Court.

SO ORDERED this 15th day of May, 2023.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All counsel of record